

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ADRIAN McCRAY,

Plaintiff

v.

H&R BLOCK EASTERN ENTERPRISES,
INC. and LINDA MURPHY,

Defendants

Civil Action No. 04-CV12232-PBS

**AFFIDAVIT IN ACCORDANCE WITH FEDERAL
RULES OF EVIDENCE 803(6) AND 902(11)**

I, P. SCHWARTZ, DPM, state that I am a duly authorized representative of
Dr. Frederic Schwartz ("Dr. Schwartz") and that the records attached hereto and included
herewith, are true, complete and accurate copies of records that were (1) made at or near the time
of occurrence of the matters set forth by, or from information transmitted by, a person with
knowledge of these matters, (2) kept in the ordinary course of the regularly conducted activity of
Dr. Schwartz and (3) created by Dr. Schwartz as part of his regular record-keeping practices.

Signed under the pains and penalties of perjury this 9 day of Sept., 2005.

Dr. Frederic Schwartz

By: Frederic Schwartz

Signature of Custodian/Keeper/Authorized Agent

Agent

FREDERIC SCHWARTZ, DPM

Print Name and Title

SHEET NO

Slit No

Note for Adrian Mccray on 06/10/2003 - Chart 0000015623

Surgeon:Frederic Schwartz, D.P.M.

06/09/2003

Procedure:Resection of Plantar Metatarsal Condyle 3rd left

For informed consent, the more common risks, benefits, and alternatives to the procedure were thoroughly discussed with Adrian. An appropriate consent form was signed, indicating Adrian understands the procedure and its possible complications.

Anesthesia:Posterior Nerve Block: 5 cc lidocaine 2% with epi

Infiltration of Local Anesthetic Promimal and adjacent to involved MPJ:8 cc lido
2% with epi

Procedure:

The foot was prepped and draped in the usual sterile manner. A linear incision was made adjacent to the plantar aspect of the 3rd left. The incision was deepened by sharp and blunt means. Soft tissue attachments to the plantar aspect of the metatarsal head was dissected free from the bone. Rotating power equipment was used to remove the plantar condyle and remodel the plantar metatarsal head surface. The incision was approximated and appeared closed.

Dressings: Neosporin ointment and dry sterile compressive dressing

Condition: Patient tolerated procedure well and left the operating room in good condition.
The foot was well perfused.

Scheduling: Patient was given post operative instructions.
Return Appointment: 3 days

Prescription: Vicodin ES 7.5mg #15



Frederic Schwartz,

Updated on 06/20/2003 By:  _____ Frederic Schwartz,

Authorization for Surgery

PATIENT: Adrian McCray

As the patient, you have both the right and obligation to make decisions concerning your health care. Your physician can provide you with the necessary information and advice, BUT IT IS YOUR DECISION WHETHER TO UNDERGO SURGERY.

1. I hereby authorize Dr. Schwartz, and whomever he may designate as his assistants, to perform upon me the following operation:

Remove bone from plantar aspect (bottom)
of 3rd MPJ left foot

and if, in his sole discretion, during the course of such operation other or different operative procedures appear advisable, to perform such other or different procedures as if they had been specifically authorized herein.

2. The nature and purpose of the operation, possible alternative methods of treatment (including no treatment), the risks involved, and the possibility of complications have been fully explained to me. I acknowledge that no guarantee or assurance has been made about the results that may be obtained.
3. I consent to the administration of anesthesia and to the use of such anesthetics as he/she may deem advisable, with the exception of none
4. I consent to the administration of radiologic procedures (x-rays), the taking of blood and urine samples for laboratory testing and such additional services or testing as may be necessary.
5. I consent to the use of transfusion of blood and blood products as deemed necessary and will not hold my physicians responsible for any possible adverse effects therefrom.
6. I consent to the disposal of any tissues or parts which may be removed during the surgical procedure.
7. To the best of my knowledge, I have not had an allergic reaction to any drug or medication except: none
8. I UNDERSTAND THAT THE USE OF DRUGS, including alcohol, prescribed or otherwise, the abuse of the same (both past and present), or the existence of conditions such as allergies to medications, pregnancy, epilepsy, herpes, AIDS, and others not disclosed by me to the doctor or his associates/assistants may affect his recommendation as to treatment or alternative forms of treatment and I ASSUME ALL RISKS which may exist as a result of my failure or refusal to disclose such matters prior to treatment. It is understood that this paragraph applied to conditions resulting from having consumed food and drink six hours prior to surgery, other than as prescribed by the doctor.
9. I certify that I have read and fully understood that above consent to operation, that the explanations therein referred to were made, and that all blanks or statements requiring insertion or completion were filled in and inapplicable paragraphs, if any, were stricken in my presence and before I signed.
10. I have informed my podiatrist of allergies to the following medications: none

Patient Signature

Adrian McCray

Date

6/9/03

Witness

Dana Begg

Date

6/9/03

FREDERIC SCHWARTZ, D.P.M., F.A.A.F.S.

Surgical Needs, Risks and AlternativesPatient Name: Adrian McCray Date: 6/9/03**Alternative Methods of Treatment:**

Before podiatrists recommend surgery, they normally try conservative treatments like the ones below.

Please ask your doctor if you have questions about these or any other alternatives

- ☒ 1. Wider shoes or changes in shoe gear
- ☒ 2. Periodic care by doctor or other health care provider.
- ☐ 3. Antibiotics
- ☒ 4. Padding and strapping
- ☒ 5. Orthotic shoe inserts
- ☐ 6. Changes in occupation
- ☐ 7. Physical therapy

As a result of this procedure being performed, there may be material risk. The risks associated with having these procedures done may include but are not limited to the following:

- ☒ 1. Infection and/or inflammation of the surgical area
- ☒ 2. Delay or non-healing of the incision and/or operated bones
- ☐ 3. Excessive bleeding/severe blood loss
- ☒ 4. Excessive swelling/poor or delayed healing
- ☐ 5. Allergic reaction to suture or other implanted material
- ☐ 6. Peripheral neurovascular complications (i.e. phlebitis)
- ☐ 7. Adverse reactions to anesthesia such as allergic reaction
- ☐ 8. Loss of or loss of function of a toe or feet
- ☒ 9. Failure of procedure or reoccurrence or worsening of condition/disability
- ☐ 10. Flail toe/stiff toe/shorter toe/elevated toe/stiffness of joint/ jamming of joints with pain
- ☐ 11. Transfer lesions/callous/problems with other bones and/or joints
- ☐ 12. Damage to nerves or vascular structures/numbness/nerve entrapment
- ☒ 13. Significant chronic pain/altered sensation (i.e. burning, tingling, stinging)
- ☒ 14. Reflex sympathetic dystrophy (painful nerve condition of the foot)
- ☒ 15. Need for additional surgery
- ☐ 16. Painful or disfiguring scars
- ☐ 17. Implants, pins, or screws that need to be taken out because they loosen, break, or migrate
- ☐ 18. Fracture or dislocation
- ☐ 19. Permanent swelling or enlargement of toe, foot, or limb
- ☐ 20. Paralysis/Paraplegia/Quadruplegia
- ☐ 21. Brain damage, cardiac arrest, stroke, or death
- ☒ 22. Difficulty in walking or wearing shoes or playing sports

I have read the above statements and all of my questions have been sufficiently answered and explained.

Patient Signature: 11 checks Adrian McCray Date: 6/9/03